

SOUTH CAROLINA PUBLIC SERVICE COMMISSION

HEARING OFFICER DIRECTIVE

DOCKET NOS. [2017-370-E](#), [2017-207-E](#), and [2017-305-E](#) ORDER NO. 2018-172-H

NOVEMBER 14, 2018

David Butler
Hearing Officer

DOCKET DESCRIPTION:

Docket No. 2017-370-E – Joint Application and Petition of South Carolina Electric & Gas Company and Dominion Energy, Incorporated for Review and Approval of a Proposed Business Combination between SCANA Corporation and Dominion Energy, Incorporated, as May Be Required, and for a Prudency Determination Regarding the Abandonment of the V.C. Summer Units 2 & 3 Project and Associated Customer Benefits and Cost Recovery Plans

Docket No. 2017-207-E – Friends of the Earth and Sierra Club, Complainant/Petitioner v. South Carolina Electric & Gas Company, Defendant/Respondent

Docket No. 2017-305-E – Request of the Office of Regulatory Staff for Rate Relief to South Carolina Electric & Gas Company's Rates Pursuant to S.C. Code Ann. § 58-27-920

MATTER UNDER CONSIDERATION:

Request to Present Deposition Excerpts or Designations

HEARING OFFICER ACTION:

Counsel for South Carolina Electric & Gas Company (“SCE&G”) requests that it be allowed to present the deposition testimony of C. Dukes Scott, Allyn Powell, Gene Soult, and Kevin Marsh in the deposition/non-pre-filed witness portion of this proceeding. SCE&G proposes use of excerpts from the video recordings of depositions in lieu of oral witness summaries, and reserves the right to use depositions of other individuals for impeachment or any other valid purpose at the hearing. The Office of Regulatory Staff (“ORS”) does not object to the proposed procedure, provided ORS and all other parties are provided an opportunity to offer counter-designations, and at least 24 hour’s notice is provided as to which excerpts and designations that SCE&G intends to present. Among other things, ORS does, however, object to the use of Kevin Marsh’s deposition without Mr. Marsh taking the stand, since SCE&G has not shown that he is unavailable to appear in person as per Rule 32 (a) (3) of the South Carolina Rules of Civil Procedure.

Actually, this same defect appears to be present with regard to the presentation of the depositions of the other three proposed deposition witnesses. In other words, not only has SCE&G failed to show that Mr. Marsh is unavailable to appear in person as per the cited Rule, but the Company has also failed to show that the other three proposed witnesses are unavailable to appear in person. For this reason, the presentation of deposition only testimony without the presence of witnesses Kevin Marsh, C. Dukes Scott, Allyn Powell, and Gene Soult is denied, absent presentation of any condition satisfying the Rule. Certainly, the witnesses can appear in person, and present their deposition testimony, which is consistent with the procedure being employed for other non-pre-filed witnesses. This holding is consistent with this Hearing Officer's ruling in Order No. 2018-96-H. Clearly, however, SCE&G or other parties have the right to use the depositions of these witnesses or those of any other individuals for impeachment or any other valid purpose at hearing.